United Nations ST/AI/2000/11

Secretariat

12 October 2000

# Administrative instruction

## Recovery of overpayments made to staff members

The Under-Secretary-General for Management, pursuant to section 4.2 of Secretary-General's bulletin ST/SGB/1997/1, hereby promulgates the following rules to be applied to the recovery of overpayments made by the Organization to staff members:

**Section 1**
**Definitions**

The following definitions shall apply for the purposes of the present instruction:

(a) "Overpayments" are payments made by the Organization to a staff member in excess of his or her entitlements under the Staff Regulations and Rules and relevant administrative issuances. Overpayments may occur in conjunction with periodic payments (for example, salary, post adjustment, dependency allowance and rental subsidy), settlement of claims (for example, education grant, tax reimbursement and travel expenses) or prepayment of the mobility and hardship allowance;

(b) "Advances" are advance payments made against expected entitlements when such payment is authorized under the applicable rules, as is the case for salary advances, and advances relating to travel, education grant and tax reimbursement, where determination of the entitlement is subject to the timely submission of a fully substantiated claim;

(c) "Monthly payments" are the monthly earnings of a staff member less payroll deductions, excluding payroll deductions made at the request of the staff member for payment to the United Nations Federal Credit Union or a similar institution.

**Section 2**
**General provisions**

2.1 The present instruction shall apply to the recovery of overpayments, not to recovery of advances, which shall be recovered immediately and in full against the monthly payments received by staff members.

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2.2 Overpayment creates on the part of the staff member an indebtedness which shall normally be recovered by means of deductions from salaries, wages and other emoluments under staff rule 103.18 (b) (ii). However, the Director of the Accounts Division for staff members payrolled in New York, or the Chief of Administration for staff members payrolled at other duty stations, may agree with the staff member who has received overpayments on alternative means of repaying the amount due, such as payment by bank cheque or personal cheque from the staff member.

2.3 If the Organization discovers that an overpayment has been made, the office responsible for the determination and administration of the entitlement shall immediately notify the staff member. That office shall keep a record of such notification.

2.4 If a staff member discovers that an overpayment has occurred, he or she shall advise the Organization immediately.

**Section 3**
**Amounts to be recovered**

3.1 Overpayments shall normally be recovered in full. However, when the Controller determines that the overpayment resulted from an administrative error on the part of the Organization, and that the staff member was unaware or could not reasonably have been expected to be aware of the overpayment, recovery of the overpayment shall be limited to the amounts paid during the two-year period prior to the notification under section 2.3 of the present instruction, or to the advice under section 2.4 of the present instruction, if earlier. Any overpayment in excess of the same entitlement that may be made after the date of such notification or advice shall be recovered in full.

3.2 The two-year limitation provided by section 3.1 of the present instruction shall not apply when the facts indicate that the overpayment was due to the submission of erroneous, fraudulent or incomplete information by the staff member.

**Section 4**
**Final provision**

The present administrative instruction shall enter into force on 1 November 2000.

(*Signed*) Joseph E. **Connor**
Under-Secretary-General for Management

United Nations ST/AI/2000/12

Secretariat

25 October 2000

# Administrative instruction

## Private legal obligations of staff members

The Under-Secretary-General for Management, pursuant to section 4.2 of Secretary-General's bulletin ST/SGB/1997/1, and for the purpose of implementing staff regulation 1.1 (f), staff rules 101.2 (c), 201.2 (c) and 301.3 (c), hereby promulgates the following:

### Section 1
### Scope

The present instruction shall apply to all staff members appointed under the 100 series, the 200 series and the 300 series of the Staff Rules, and should be read in conjunction with Secretary-General's bulletin ST/SGB/1999/4, "Family and child support obligations of staff members".

### Section 2
### General provisions

2.1 Under staff rules 101.2 (c), 201.2 (c) and 301.3 (c), staff members must comply with local laws and honour their private legal obligations, including the obligation to honour orders of competent courts. Such orders include orders against a staff member to make payments for the support of his or her spouse or former spouse and/or dependent children ("family support court orders").

2.2 In accordance with staff regulation 1.1 (f), the privileges and immunities of the United Nations are conferred in the interests of the Organization and furnish no excuse to staff members who are covered by them for the non-performance of their private legal obligations. The Secretary-General shall determine in any particular case whether such privileges and immunities exist and, if so, whether they shall be waived.

2.3 Pursuant to section 20 of the Convention on the Privileges and Immunities of the United Nations ("the Convention"), the immunity granted to an official shall be waived in any case where, in the opinion of the Secretary-General, the immunity would impede the course of justice and its waiver will not prejudice the interests of the United Nations. In accordance with section 21 of the Convention, the United Nations has an obligation to cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges and immunities of the Organization.

2.4 Abuse of the privileges and immunities of the United Nations in order to avoid service of process may result in disciplinary action.

### Section 3
### Mission service

Staff members detailed to special missions shall:

(a) Make suitable arrangements before departure for payment of their debts and discharge of their ongoing obligations at the parent duty station, and

(b) Settle all indebtedness incurred in the mission area before their departure from the mission.

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**Section 4**
**Procedures applicable in cases of non-compliance with family support court orders**

4.1 The procedures for deductions from staff members' salaries, wages and other emoluments set out in Secretary-General's bulletin ST/SGB/1999/4 shall apply to ensure effective relief when staff members fail to comply with family support court orders. Those procedures are without prejudice to actions under sections 4.2, 4.3 and 6 of the present instruction.

4.2 When a staff member is in arrears on his or her family support obligations, and the arrears have been judicially established but the court has not specifically ordered additional monthly payments to liquidate such arrears, the staff member shall be required to submit satisfactory evidence within thirty days from the date of receipt of the request from the Office of Human Resources Management or the local personnel office that he or she has taken all necessary steps to discharge his or her outstanding arrears. This requirement shall be met if the staff member submits evidence:

(a) That the entire amount of arrears has been paid, or

(b) That alternative arrangements have been agreed upon with the spouse, former spouse, dependent children or their legal representative(s).

4.3 Failure to submit evidence satisfactory to the Secretary-General as required by section 4.2 of the present instruction may constitute serious misconduct and lead to the imposition of appropriate disciplinary measures.

**Section 5**
**Procedures applicable in cases of non-compliance with other private legal obligations**

5.1 The United Nations, including its property and assets, is immune from legal process and from judgements of execution. United Nations salaries, therefore, are not subject to garnishment or attachment. However, privileges and immunities are granted to officials in the interests of the United Nations, not for the personal benefit of the individuals themselves, and the Organization's immunity is not intended to derogate from the rights of legitimate claimants. Accordingly, when an outside claimant communicates to the United Nations that a staff member has failed to honour his or her private legal obligation, the Organization shall proceed as provided in the provisions set out below.

5.2 The outside claimant shall be advised of the Organization's immunity, whereby United Nations salaries are not subject to garnishment, and of its policy of requiring staff members to meet their private legal obligations.

5.3 The staff member concerned shall be provided with a copy of the correspondence from and to the claimant, together with a copy of the claim, levy or order, and shall be requested to take prompt action to resolve the matter and to advise the Office of Human Resources Management or the local personnel office of the action taken.

5.4 If no appropriate action has been taken within three months from the date of receipt by the staff member of the request made under section 5.3 of the present instruction, all related correspondence shall be placed in the staff member's official status file and disciplinary action may be initiated.

**Section 6**
**Deductions from final entitlements**

6.1 Deductions from all final entitlements, including repatriation grant, may be made under staff rules 103.18 (b) (ii) and (iii), 203.13 (b) (ii) and (iii) or 303.5 (b) to pay the staff member's legally established obligations, including family support obligations.

6.2 The order of precedence of deductions from final entitlements shall be as follows:

(a) Deductions for indebtedness to the United Nations and the United Nations Credit Union (or similar institution at duty stations away from Headquarters);

(b) Outstanding judicially established family obligations;

(c) All other legally established indebtedness to third parties.

6.3 In case of dispute or conflicting claims in connection with deductions from final entitlements, including issues or priority, the United Nations shall have the right, in its discretion, to withhold payment commensurate with the amount in question until such dispute or conflicting claims have been resolved by

written agreement of the interested parties or the issuance of a final judgement by a court of competent jurisdiction.

**Section 7**
**Final provisions**

7.1 The present administrative instruction shall enter into force on 1 December 2000.

7.2 Administrative instruction ST/AI/399 of 14 December 1994 is hereby abolished.

(*Signed*) Joseph E. **Connor**
Under-Secretary-General for Management

# Secretariat

25 October 2000

## Administrative instruction

### Outside activities

The Under-Secretary-General for Management, pursuant to section 4.2 of Secretary-General's bulletin ST/SGB/1997/1, and for the purpose of implementing staff regulation 1.2 (h), (o), and (p), and staff rules 101.2 (p) to (r), 201.2 (p) to (r) and 301.3 (p) to (r), hereby promulgates the following:

**Section 1**
**Scope**

The present instruction shall apply to all staff members appointed under the 100 series, the 200 series and the 300 series of the Staff Rules.

**Section 2**
**General**

Staff members engaging in outside activities authorized under the present instruction shall make clear to the organizers and participants in such activities, including any employers, that they act in their personal capacity and not as representatives of the United Nations.

**Section 3**
**Outside occupation or employment**

3.1 Under staff regulation 1.2 (o), a staff member shall not engage in any outside occupation or employment, whether remunerated or not, without the approval of the Secretary-General. For the purposes of the present instruction, the expression "occupation" shall include the exercise of a profession, whether as an employee or an independent contractor.

3.2 In accordance with staff regulation 1.2 (p), approval of an outside occupation or employment shall be subject to all the following requirements:

(a) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant. In determining whether this requirement is met, special attention shall be paid to the need to ensure that the outside occupation or employment would not in any way interfere with the staff member's ability to perform all his or her official duties, or call into question the impartiality and independence of the staff member as an international civil servant;

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(b) The outside occupation or employment is not against the interest of the United Nations. In determining whether this requirement is met, special attention shall be paid to the need to ensure that the occupation or employment does not reflect adversely upon the United Nations, and is compatible with its activities and goals;

(c) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs. No approval shall be granted when the visa status of the staff member, such as the G-4 visa in the United States, prohibits the holder from accepting employment or earning money from an occupation outside the Organization.

3.3 Special leave may be granted under staff rules 105.2, 205.3, or 305.2, as applicable, for the conduct of an outside occupation or employment approved under this section. While on special leave, staff members remain subject to the provisions of the present instruction.

**Section 4**
**Activities related to the United Nations**

4.1 Under staff rules 101.2 (p), 201.2 (p) and 301.3 (p), except in the normal course of official duties, prior authorization is required to engage in any of the following acts, if such act relates to the purpose, activities or interests of the United Nations:

(a) Issuance of statements to the press, radio or other agencies of public information;

(b) Acceptance of speaking engagements;

(c) Taking part in film, theatre, radio or television productions;

(d) Submitting articles, books or other material for publication.

4.2 Outside activities that are of benefit to the Organization or the achievement of its goals and/or contribute to the development of professional skills of staff members are usually not only permitted but encouraged, provided staff members exercise the utmost discretion with regard to all matters of official business and avoid any public statement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

4.3 Publication of material by a publisher other than a publisher legally subsidiary to any organ of the United Nations shall require the following disclaimer:

> "The views expressed herein are those of the author(s) and do not necessarily reflect the views of the United Nations."

4.4 Special leave may be granted under staff rules 105.2, 205.3 or 305.2, as applicable, for the conduct of an outside activity approved under this section. While on special leave, staff members remain subject to the provisions of the present instruction.

4.5 In addition to their United Nations emoluments, staff members authorized to perform an outside activity approved under this section may only accept from sources external to the United Nations accommodation, travel costs and subsistence allowance generally in line with those payable by the United Nations, in accordance

with staff rules 101.2 (s), 201.2 (s) and 301.3 (s). A subsistence allowance that may otherwise have been paid by the Organization shall be reduced accordingly. Staff members may not accept any additional fee, remuneration or honorarium, except for royalty or related payments for published material where such payment is allowed under local laws.

## Section 5
## Other outside activities

### Social or charitable activities

5.1 Private non-remunerated activities for social or charitable purposes which have no relation to the staff member's official functions or to the Organization, and take place outside working hours or while the staff member is on leave, may be engaged in at the staff member's discretion. Staff members shall in every instance ensure that the activity is and remains compatible with their status as international civil servants.

### Pursuit of studies

5.2 Studies that take place outside working hours or while the staff member is on leave may be engaged in at the staff member's discretion.

### Political activities

5.3 In accordance with staff regulation 1.2 (h), staff members may exercise the right to vote but shall ensure that their participation in any political activity is consistent with, and does not reflect adversely upon, the independence and impartiality required by their status as international civil servants.

5.4 In accordance with staff rules 101.2 (q), 201.2 (q) and 301.3 (q), membership in a political party is permitted, provided such membership does not entail action, or an obligation to take action, contrary to staff regulation 1.2 (h). Payment of normal financial contributions to a political party shall not be construed as an activity inconsistent with the principles set out in staff regulation 1.2 (h).

5.5 Candidature or appointment to political office, including at the local level, shall not be permitted.

## Section 6
## Procedures

### Clarification procedure

6.1 A staff member may seek in confidence clarification as to whether a planned outside occupation, employment or activity would conflict with his or her status as an international civil servant.

6.2 At United Nations Headquarters, the request for clarification shall be addressed in writing to the Office of Human Resources Management, except for outside activities related to the United Nations listed in section 4 of the present instruction, for which the request shall be addressed to the head of department or office.

6.3 At United Nations offices away from Headquarters, all requests for clarification shall be addressed to the chief of the local personnel office.

6.4 A reply to the staff member's request shall be provided as expeditiously as possible.

6.5 Unless otherwise requested by the staff member, neither the request for clarification nor the reply shall be made part of his or her official status file.

**Approval procedure**

6.6 A staff member wishing to engage in an outside activity for which prior approval is required in accordance with sections 3 and 4 of the present instruction shall submit a request in writing through his or her supervisor to the executive officer at United Nations Headquarters, or to the local chief of personnel at United Nations offices away from Headquarters. Requests for approval shall specify the employer or sponsor of the outside activity, the nature, timing and duration of the activity, and any related remuneration, which requires specific approval under staff regulation 1.2 (l).

6.7 For requests to engage in an outside occupation or employment under section 3:

(a) At United Nations Headquarters, the executive officer shall forward the request for decision to the Office of Human Resources Management, together with his or her recommendation;

(b) At United Nations offices away from Headquarters, the chief of the local personnel office shall forward the request for decision to the head of office, together with his or her recommendation.

When approval is granted, it shall be for not more than 12 months at a time.

6.8 Requests to engage in the outside activities related to the United Nations listed in section 4 shall be submitted for decision to the head of department or office through the executive officer or the chief of the local personnel office, together with their recommendation. The opinion of the Office of Human Resources Management and any other relevant Office may be sought in case of doubt.

6.9 The executive officer or the chief of the local personnel office shall inform the staff member as expeditiously as possible of the decision on the staff member's request for approval. If the request is denied, the reason for the refusal shall be given.

**Section 7**
**Final provisions**

7.1 The present instruction shall enter into force on 1 December 2000.

7.2 Administrative instruction ST/AI/190/Rev.1 of 2 May 1983 is hereby abolished.

(*Signed*) Joseph E. **Connor**
Under-Secretary-General for Management